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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

UNITED STATES OF AMERICA,)	No. CR 05-00649 CW
)	
Plaintiff,)	ORDER GRANTING STIPULATION FOR
)	PROTECTIVE ORDER RE: DISCOVERY
v.)	OF PERSONAL AND FINANCIAL
)	INFORMATION
JAMES ROBERT METZGER,)	
)	
Defendants.)	
)	
)	OAKLAND VENUE

With the agreement of the parties, and with the consent of the defendant, the Court enters the following order:

Defendant James Robert Metzger is charged with one count of aggravated identity theft, in violation of 18 U.S.C. §1028A; and two counts of access device fraud, in violation of 18 U.S.C. §1029. Upon request, the United States will produce to counsel for the defendant discovery that contains personal identifying information, including social security numbers, birth dates and driver's license numbers, and private financial information, including account numbers and locations, pertaining to the victims in this case. Pursuant to Federal Rule of Criminal Procedure 16, the government requests that disclosure of these materials be subject to the following restrictions:

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PROTECTIVE ORDER
[CR 05-00651 CW]

1 1. Except when being actively examined for the purpose of the preparation of the
2 defense of defendant James Robert Metzger, the documents containing personal identifying and
3 private financial information of third parties produced by the government to defense counsel
4 shall be maintained in a locked, safe, and secure drawer, cabinet, or safe which is accessible only
5 to defense counsel, members of his or her law firm who are working with him or her to prepare
6 the defendant's defense, and his or her investigator. Defense counsel, members of his or her law
7 firm, the defendant, and the investigator shall not permit any person access of any kind to the
8 documents or disclose in any manner the personal identifying and private financial information
9 of third parties except as set forth below.

10 2. The following individuals may examine the documents and information related to
11 the personal identifying and private financial information of third parties for the sole purpose of
12 preparing the defense of defendant James Robert Metzger and for no other purpose:

- 13 a) Counsel for defendant;
- 14 b) Members of the counsel for the defendant's law office who are assisting
15 with the preparation of James Robert Metzger's defense;
- 16 c) Defendant James Robert Metzger, but only in the presence of defense
17 counsel or another authorized person listed in this paragraph;
- 18 d) Investigators retained by the defendant to assist in the defense of this
19 matter.

20 If defense counsel determines that additional persons are needed to review the material, he or she
21 must obtain a further order of the Court before allowing any other individual to review the
22 material.

23 3. A copy of this order shall be maintained with the documents at all times.

24 4. All individuals other than defense counsel and the defendant who receive access
25 to the materials pursuant to this Order, prior to receiving access to the materials, shall sign a
26 copy of this Order acknowledging that

- 27 a) they have reviewed the Order;
- 28 b) they understand its contents;

- 1 c) they agree that they will only access the documents and information for
2 the purposes of preparing a defense for defendant James Robert Metzger;
3 d) they understand that failure to abide by this Order may result in sanctions
4 by this Court.

5 Counsel for the defendant shall promptly file signed copies of the Order, ex parte and under seal.
6 The government shall have no access to these signed copies without further order of the District
7 Court.

8 5. No other person may be allowed to examine the material without further court
9 order. Examination of the documents shall be done in a secure environment which will not
10 expose the materials to other individuals not listed above.

11 6. Documents such as word processing files, e-mails, and other text files may be
12 duplicated to the extent necessary to prepare the defense of this matter.

13 7. Any pleadings that reveal the personal identifying or private financial information
14 of third parties, either by attaching copies of documents containing that information or
15 referencing that information, shall be redacted to prevent the disclosure of such information or
16 filed under seal.

17 8. Within five court days of the judgement and sentencing hearing in this matter, all
18 material provided to defense counsel pursuant to this Order, and all other authorized copies, if
19 any, shall be returned to the Government. The Government shall destroy them. If defendant

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1 believes that he must maintain the material for any reason related to appeal, defendant must seek
2 authorization from the District Court within five days of the sentencing and judgement in this
3 matter.

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5 STIPULATED:

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7 DATED: _____

8 Attorney for Defendant Metzger

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10 DATED: _____

11 KIRSTIN M. AULT
Assistant United States Attorney

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13 IT IS SO ORDERED that disclosure of the above-described discovery materials shall be
14 restricted as set forth above.

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16 DATED: 11/9/05

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18 CLAUDIA WILKEN
19 United States District Judge
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